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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,043	12/19/2001	Hideyuki Matsushima	05711.0136	9496
7590 08/23/2004 Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P. 1300 I Street, N.W. Washington, DC 20005-3315			EXAMINER BAHTA, ABRAHAM	
			ART UNIT 1775	PAPER NUMBER

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/021,043	<b>Applicant(s)</b> MATSUSHIMA ET AL.	
	<b>Examiner</b> Abraham Bahta	<b>Art Unit</b> 1775	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other:  |

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over DuBois (USP 4,967,322).

DuBois teaches a transparent cylindrical or tubular sheath wherein a reflective material is inserted into the tubular sheath. See col. 3, lines 13-51 and col. 4, lines 13-35. The sheath comprises a spacer so that the reflective material may not have a tendency to bind against the sheath inner surface. See col. 3, lines 16-27. The reflective material may be a rectangular piece of foil. See col. 2, lines 62-65. The reflective material may comprise a fixing portion such as radial projection for facilitating the passage of the support tube with attached foil into the transparent tubular sheath. See col. 3, lines 19-28.

DuBois does not require the transparent cylinder to be made of synthetic resin; however, since DuBois teaches the support tube may be made from a plastic material, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to fabricate the transparent tubular sheath from a synthetic resin, as it is within the general skill of a worker in the art to select a known material on the basis of its suitability.

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Regarding claim 2, the reference teaches a spacer is provided so that the foil does not bind against the sheath inner surface as the sheath and support tube move axially relative to each other. See col. 3, lines 23-28. Thus, since DuBois reflective material does not bind against the sheath inner surface it implies that there is an air layer between the reflective material and the inner surface of the sheath.

With respect to claim 3, the reference teaches the reflective material is a rectangular piece of foil having a reflective outer surface.

Concerning claim 4, the reference teaches a fixing portion or spacer such as radial projections may be employed to serve for facilitating the passage of the support tube with attached foil into the transparent tubular sheath.

### ***Claim Rejections - 35 USC § 103***

Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over DuBois '322 in view of Billingsley et al (USP 6,110,558).

As discussed above, applicant's claimed invention is obvious in view of DuBois '322. Concerning claim 5, DuBois does not require an attachment means on the outer surface of the sheath member; however, Billingsley teaches a reflective article having a retro- reflective material wherein the article may be attached to skirts, sweaters, jackets, gloves, belts, hats and bags. The reference teaches the reflective article may be secured mechanically or by use of adhesive to a

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substrate such as a fabric or article of clothing. See col. 4, lines 3-6 and col. 7, lines 30 - col. 8, line 3.

It would have been obvious to one of ordinary skill in the art at the time of the invention to include a suitable attachment means to the reflective stick/device of DuBois in order to attach the reflective material to a desired object or substrate.

Concerning claim 6, DuBois does not require a retro reflective material; however, Billingsley teaches a reflective article having a retro reflective material. See col. 4, lines 3-6.

It would have been obvious to one of ordinary skill in the art at the time of the invention to include a retro reflective layer to the reflective material of DuBois in order to return a substantial portion of incident light in the direction from which the light originated as suggested by Billingsley. See col. 1, lines 17-19.

### ***Claim Rejections - 35 USC § 103***

Claims 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over DuBois '322.

DuBois teaches a transparent cylindrical or tubular sheath wherein a reflective material is inserted into the tubular sheath. See col. 3, lines 13-51 and col. 4, lines 13-35. The sheath comprises a spacer so that the reflective material may not have a tendency to bind against the sheath inner surface. See col. 3, lines 16-27. The reflective material may be a rectangular piece of foil. See col. 2, lines 62-65. The reflective material may comprise a fixing portion such as

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radial projection for facilitating the passage of the support tube with a attached foil into the transparent tubular sheath. See col. 3, lines 19-28.

DuBois does not require the transparent cylinder made of soft synthetic resin; however, since DuBois teaches the support tube may be made from a plastic material, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to fabricate the transparent tubular sheath from a synthetic resin, as it is within the general skill of a worker in the art to select a known material on the basis of its suitability.

Regarding claim 8, the reference teaches a spacer is provided so that the foil does not bind against the sheath inner surface as the sheath and support tube move axially relative to each other. See col. 3, lines 23-28. Thus, since DuBois reflective material does not bind against the sheath inner surface it implies that there is an air layer between the reflective material and the inner surface of the sheath.

With respect to claim 9, the reference teaches the reflective material is a rectangular piece of foil having a reflective outer surface.

Concerning claim 10, the reference teaches a fixing portion or spacer such as radial projections may be employed to serve for facilitating the passage of the support tube with attached foil into the transparent tubular sheath.

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***Claim Rejections - 35 USC § 103***

Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over DuBois '322 in view of Billingsley '558.

As discussed above, applicant's claimed invention is obvious in view of DuBois '322. Concerning claim 11, DuBois does not require an attachment means on the outer surface of the sheath member; however, Billingsley teaches a reflective article having a retro-reflective material wherein the article may be attached to skirts, sweaters, jackets, gloves, belts, hats and bags. The reference teaches the reflective article may be secured mechanically or by use of adhesive to a substrate such as a fabric or article of clothing. See col. 4, lines 3-6 and col. 7, lines 30 - col. 8, line 3.

It would have been obvious to one of ordinary skill in the art at the time of the invention to include a suitable attachment means to the reflective stick/device of DuBois in order to attach the reflective material to a desired object or substrate.

Concerning claim 12, DuBois does not require a retro-reflective material; however, Billingsley teaches a reflective article having a retro reflective material. See col. 4, lines 3-6.

It would have been obvious to one of ordinary skill in the art at the time of the invention to include a retro-reflective layer to the reflective material of DuBois in order to return a substantial portion of incident light in the direction from which the light originated as suggested by Billingsley. See col. 1, lines 17-19.

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**Response to Applicant's Arguments/Remarks**

With respect to DuBois the applicant argues that the reference fails to disclose a cylindrical ornamental body comprising a flexible transparent cylindrical main body made of synthetic resin. The Examiner agrees. The Examiner contends that the only difference between the subject application and that of the '322 patent is that the cylinder sheath of DuBois is made from a plastic material and the cylinder body of the present claimed invention is made from a flexible synthetic resin. The choice of a specific material to fabricate the cylindrical body is a matter of design choice. Absent a showing of unexpected results the claim is obvious over the reference and no patentable distinction is seen.

The applicant argues Billingsley '558 does not disclose "a cylindrical ornament body comprising a flexible transparent cylindrical main body made of synthetic resin". The Examiner agrees; however, Billingsley is cited to show that an attachment device may be included to a reflective material in order to attach the reflective material to a desired object or substrate. Further, Billingsley is cited to show a retro-reflective material may be employed with a reflective material in order to return a portion of incident light in the direction from which the light originated.

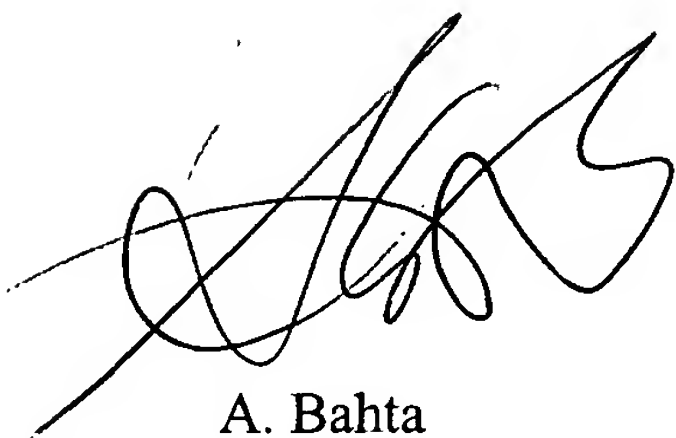


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**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Abraham Bahta at telephone number 703-308-4412.

A handwritten signature in black ink, appearing to be 'A. Bahta', written over a horizontal line.

A. Bahta

08/26/03